

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DON BLOOM,	:	NO. 1:09-CV-024
	:	
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
SHREE GANESH PAYAL,	:	
LLC, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's July 15, 2009, Report and Recommendation (doc. 10), to which there were no objections. Don Bloom ("Plaintiff") filed his Complaint pro se on January 13, 2009, alleging Defendants Shree Ganesh Payal, LLC and Mahendra Patel (hereinafter "Defendants") failed to pay rental fees pursuant to a commercial lease (doc. 1). Defendants filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) on March 11, 2009 (doc. 7), to which Plaintiff did not respond. Thereafter, on May 5, 2009, the Magistrate Judge ordered Plaintiff to show cause in writing why his Complaint should not be dismissed for lack of subject matter jurisdiction (doc. 9). Plaintiff failed to do so.

In his Report and Recommendation, the Magistrate Judge recommended that Plaintiff's Complaint be dismissed for failure to prosecute and for failure to comply with an order of the Court (Doc. 10). The Magistrate Judge noted that district courts have

the inherent power to sua sponte dismiss civil actions for want of prosecution. Link v. Wabash R.R., 370 U.S. 626, 630-31(1962). The Magistrate Judge found that Plaintiff's failure to file a response to Defendant's Motion to Dismiss thus warrants dismissal of this action (doc. 10).

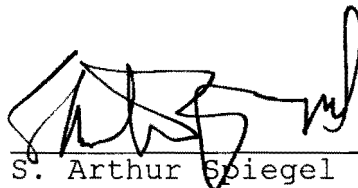
The Magistrate Judge also recommended dismissal of Plaintiff's action for lack of subject matter jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(1) (doc. 10.). The Magistrate Judge determined that because Plaintiff's complaint does not raise a federal question, federal jurisdiction is dependant upon the Plaintiff proving diversity of citizenship (Id., citing 28 U.S.C. § 1332). Because Plaintiff bears the burden of proving diversity, i.e., that the two involved parties are citizens of different states, and because Plaintiff has failed to allege any facts to indicate that he and Defendants are citizens of different states, the Magistrate Judge found that no diversity of citizenship existed (Id.). Thus, the Magistrate Judge determined that Plaintiff failed to meet his burden of establishing the existence of subject matter jurisdiction, and recommended dismissal of Plaintiff's Complaint (Id.).

Having reviewed this matter, the Court finds the Magistrate Judge's Report and Recommendation thorough and well-reasoned. For the reasons stated above, the Court hereby ADOPTS the Magistrate Judge's report (id.), AFFIRMS the Magistrate Judge's

recommended decision (id.), and DISMISSES this case from the Court's Docket.

SO ORDERED.

Dated: 9/10/29

A handwritten signature in black ink, appearing to read 'S. Arthur Spiegel', written over a horizontal line.

S. Arthur Spiegel
United States Senior District Judge